

AMENDING REVISED STATUTES RELATING TO COPY- RIGHTS.

MAY 11, 1898.—Referred to the House Calendar and ordered to be printed.

MR. HICKS, from the Committee on Patents, submitted the following REPORT.

[To accompany H. R. 7015.]

The Committee on Patents, to whom was referred the bill (H. R. 7015) to amend title 60, chapter 3, of the Revised Statutes, relating to copyrights, submit the following report:

The committee heard the music publishers of the country, whom this bill is intended to protect, through their committee and attorney, and were impressed with the necessity of the enactment of the pending measure, intended for their better protection.

It was made apparent to your committee that during the last fifteen years large quantities of reprint musical compositions have been imported into the United States (mostly emanating from Canada) in violation of the copyright laws. In Canada there are a number of music publishers who are known as "pirates." These publishers watch with an eagle eye the popular and best-selling compositions of United States copyrights, and reprint them. The demand in Canada is so limited that it would not pay to reprint the hundreds of these compositions, which they have done, if it were not for the extensive market which the United States affords.

Our music publishers, as a rule, pay to the composer a large sum of money for his manuscript, and in addition a royalty on every copy sold. The publisher has the expense of making plates, attractive titles, printing, and bringing the same to the attention of the public by advertising.

Various methods are pursued in advertising. The higher grade music, both vocal and instrumental, is usually advertised in the newspapers and magazines and by thematic catalogues, circulars, etc. The Oliver Ditson Company, of Boston, New York, and Philadelphia, spends \$50,000 annually in advertising its publications and hundreds of dollars annually for United States postage stamps in sending catalogues and circulars through the mails.

The publishers of popular music advertise their music in a different way, usually through vaudeville shows, minstrel shows, comic opera, etc., and large sums of money are spent in introducing their music in this way.

The Canadian "pirate" has no greater expense than the cost of photographing the plates of a musical composition, or making them in some other cheap way, with the cost of paper and printing. You will readily see that such publishers can sell their reprint editions for a much less price than the authorized copies can be sold for, and still make a handsome profit. It is said that only one musical composition out of twenty or thirty pays the cost of the plates from which it is printed, and the number of musical compositions which become extremely popular are very few in comparison with the number published. Therefore, the publisher must make a profit that will sustain the amount of money lost by musical compositions which have little or no sale.

During the last twelve months the Canadian "pirates" have adopted new tactics, and they have exhibited an amount of nerve which is really appalling. They have sent into the United States, by methods unknown to us, tens of thousands of their "pirated" editions of musical compositions. They also send travelers to this country who visit the music dealers in the small places and sell from the stock which they carry with them in trunks.

Letters of complaint have been filed with your committee from music dealers who are trying to do an honest business, asking if something can not be done to protect their trade, as thousands of these unauthorized Canadian editions are being sold by dealers who have no regard for the law, and the result is that the sale of the authorized edition is almost totally destroyed in such places. You will find hereto attached a few specimen letters.

Many of the publishers of popular music in New York City (which is headquarters for this class of music) complain that their business is almost ruined from the sale in the United States of the Canadian reprint editions.

The music publishers of the United States are now asking for additional legislation in the bill which is now reported (H. R. 7015). The object in asking for this legislation comes from the fact that our present copyright laws are not sufficient to punish the offenders. The present law provides a penalty of \$1 for every sheet of music found in his possession. Our experience has been that persons who ventured to sell illegal music are men of secretive make-up, who have little regard for the law, and who keep but little of this "pirated" music in their places of business at one time, usually secreting the stock some place outside of their stores. When lawsuits have been brought against them very few copies have been found—possibly from ten to one hundred copies. As this music would represent the copyright property of fifteen or twenty different publishers it would be necessary to institute as many suits to make the penalty sufficient for the crime under our present law. It would cost the publisher about \$100 for law to get \$5 worth of damages. Therefore, it does not seem unreasonable to ask for the penalty of not less than \$50, as provided in the bill.

We can not say that greater damages could be collected than have been in the past should this bill become a law. We do think, however, that the greater penalty would have greater influence in protecting the authorized editions. A few test cases might stop the traffic. If, however, this did not prove to be the case, then the last section of the bill could be brought into action, namely: "If the unlawful printing, publishing, importation, or sale, or exposing for sale, be willful and for profit, such person or persons shall be guilty of a misdemeanor, and upon conviction be imprisoned for a period of not exceeding one year."

The object in asking for this portion of the bill comes from information which has been received that the Canadian "pirates" have established underground printing establishments in this country.

We call attention to the present copyright law, section 4956:

Any person publicly performing or representing any dramatic or musical composition for which a copyright has been obtained, without the consent of the proprietor of said dramatic or musical composition, or his heirs or assigns, shall be liable to damages therefor; such damages in all cases to be assessed at such sum, not less than one hundred dollars for the first and fifty dollars for every subsequent performance, as to the court shall appear to be just. If the unlawful performance and representation be willful and for profit, such person or persons shall be guilty of misdemeanor, and upon conviction be imprisoned for a period not exceeding one year.

This law would seem to take advantage of an innocent person who might sing or perform a musical composition in public without the permission of the owners of the copyright. We do not know of any music publisher who has made a demand upon innocent persons for performances of that kind, and we are confident that if a publisher should so take advantage of the law he would make himself very unpopular with the public.

During the last ten years the music publishers of the United States have received the names of hundreds of persons who have been importing from Canada "pirated" editions for use in teaching both in private and in schools. Except to send to such persons "a letter of warning," copy of which is hereto attached, nothing has ever been done.

The music publishers of this country are not only American citizens, but are a peaceable people; they are not looking for trouble, nor do they desire legal contentions; they are determined, however, if possible, to protect themselves against an evil which is ruining their business.

The English Government promised to the United States, in the international copyright treaty of 1891, not only Canada, but all her colonies, as members of this treaty. Canadian publishers, so your committee have been informed, do not recognize the conditions of this international treaty. Lawsuits have been instituted with publishers in that country for reprinting the international copyrights of many of our publishers, and over 18,000 "pirated" copies were seized, and one publisher had contracted for 40 tons of paper, with the view of printing "pirated" editions for the American market.

Attention is directed to copies of letters, hereto attached, that give additional information on this important subject.

These reasons, in the judgment of your committee, are good and sufficient, and should so commend the measure as to secure its speedy enactment into a law.

Your committee suggest the following amendments:

In line 10, page 1, strike out the word "to" and insert "for."

In lines 14 and 15, pages 1 and 2, strike out the words "one hundred" and insert "fifty."

At the end of line 19, page 2, add "and be fined not exceeding one thousand dollars, or either, or both, at the discretion of the court;" and so amended your committee urge that the bill do pass.

OFFICE OF THE SECRETARY,
New York, March 1, 1898.

MY DEAR MR. FURNISS: At a mass meeting of the executive council of the American Copyright League, on the 24th of February, a resolution was passed approving of the bill introduced by the Hon. John Murray Mitchell (H. R. 7015), providing

more adequate penalties for the piracy of musical publications, and the secretary was instructed to communicate the action of the council to the Committee on Patents.

Sincerely, yours,

R. U. JOHNSON, *Secretary.*

MR. GEORGE W. FURNISS,
453 Washington street, Boston, Mass.

CHARLESTON, S. C., *February 28, 1895.*

GENTLEMEN. A large number of books and music are being procured by teachers and pupils from Canada; I think from Landry & Co. This music is all copyright in this country and a good deal of it is yours.

Can you suggest a way to deal with this? I should be glad to help you against a common enemy.

Yours, truly,

HENRY SEIGLING.

C. H. DITSON & Co., *New York.*

SAN FRANCISCO, *August 12, 1897.*

DEAR SIR: I have just been told that a firm called the Irvine Stationery Company, or some such name, at Phoenix, Ariz., is dealing heavily in the Canadian reprint editions, and is calling it the Irvine 5-cent sheet music.

As secretary of the Music Publishers' Association, I think it would be in the interest of the trade in general for you to investigate this matter.

Yours, truly,

J. P. BRODER,
Of Broder & Schlam.

CHARLES B. BAYLY, *Washington, D. C.*

CEDAR FALLS, IOWA, *September 10, 1897.*

MCKINLEY MUSIC COMPANY:

The legitimate trade in music is such in this country that something will have to be done. My neighbors are (some of them) selling the late copyrighted pieces at 10 cents, and it kills the legitimate trade. They are gotten up just as cheap as they can be, and would be big money in them at 1 cent. Of course there is no publisher's name or anything on them to indicate where they are printed. I just saw a copy of "Sweet Bunch of Daisies" and "My Gal is a High-born Lady." They look something like a street poster, but the music and words are complete. Of course they are counterfeits, but they go in this country and times, and can you tell me where they come from? If this is the game I want some.

Respectfully,

G. M. BELL.

BRAZIL, IND., *October 19, 1897.*

GENTLEMEN: I have been buying your "Sweet Bunch of Daisies" by Owen, of you, and paying you the regular price of 50 cents, less the usual discount to dealers, which would make it cost me $22\frac{1}{2}$ cents per copy.

Mr. A. P. Wall, of this city, is selling another edition of this same thing at 10 cents. I have a copy of it, which was bought in his store to-day. Mr. Wall says he is having a large sale of these special editions. What I want to know is, is this legitimate, selling a cheaper edition of the same thing? It is marked "The Imperial Edition." If not, is there any way to have it brought before the proper authorities; and if it is legitimate, why should I pay a fancy price to protect the owner of the copyright, or what is our copyright law in existence for?

Mr. Wall is selling all the late and popular things at 10 cents, and gets them, he says, from Canada. It is impossible for an honest dealer to cope with a rascal who will disregard our national law as he is doing; and if it can be adjusted, I want it done. Please let me hear from you at your earliest convenience, and oblige,

Yours, truly,

W. J. EVANS.

Messrs. LYON & HEALY, *Chicago.*

BUFFALO, N. Y., November 7, 1895.

GENTLEMEN: Canadian music publishers have resorted to another scheme to circulate their reprints through United States mails. While we were watching the Canadian mails they sent them across the border outside the mails, and had them posted right here in this city. Yesterday we held several hundred parcels. This office has notified the Department in Washington. I thought it of importance enough to inform you.

Respectfully,

ROBT. EICHEL,
Assistant Superintendent Mails, Buffalo, N. Y., Post-Office.

OLIVER DITSON COMPANY, Boston, Mass.

MUSIC PUBLISHERS' ASSOCIATION OF THE UNITED STATES.

Warning.

It has been brought to the attention of the Music Publishers' Association of the United States that hundreds of the most valuable copyrighted musical compositions of its members have been reprinted in foreign countries, and that large quantities of this contraband music and music books are coming to the United States (mostly emanating from Canada) in violation of the copyright laws of the United States, and in violation also of the postal treaty between the United States and Canada.

The Music Publishers' Association of the United States has determined to protect the interests of its members, as well as the interests of the authors and composers of the copyrighted music and books infringed, and hereby notifies any person or persons importing such contraband music or music books that they are violating the copyright laws of the United States and subjecting themselves to heavy penalties, whether they are importing the same for personal use or for sale.

It is also a violation of the copyright laws for any person or persons in the United States, without the consent of the owners of the copyright, to reprint or publish in any form the words or music of any musical composition which has been duly copyrighted under the copyright laws of the United States.

Music Publishers' Association of the United States:

Boosey & Co., New York City; Ditson, Oliver, & Co., Boston, Mass.; Ditson, C. H., & Co., New York City; Ditson, J. E., & Co., Philadelphia, Pa.; Ellis, John F., & Co., Washington, D. C.; Fischer, Carl, New York City; Goggan, Thos., & Bro., Galveston, Tex.; Gordon, H. S., New York City; Greene, J. C., & Co., Cincinnati, Ohio; Harms, T. B., & Co., New York City; Held, Chas. W., Brooklyn, N. Y.; Howley, Haviland & Co., New York City; Jennings, Geo. B., Co., Cincinnati, Ohio; Lyon & Healy, Chicago, Ill.; Mills, F. A., New York City; Novello, Ewer & Co., New York City; Pond, Wm. A., & Co., New York City; Rohlfs Sons' Music Co., Milwaukee, Wis.; Schuberth, E., & Co., New York City; Shattinger, A., St. Louis, Mo.; Swisher, M. D., Philadelphia, Pa.; Wehman, H. J., New York City; White-Smith Music Pub. Co., Boston, Mass.; White-Smith Music Pub. Co., Chicago, Ill.; White-Smith Music Pub. Co., New York City; Witmark, M., & Sons, New York City; Witzmann, E., & Co., Memphis, Tenn.; Wood (The B. F.) Music Co., Boston, Mass.; Woodward, W., & Co., New York City; J. F. Bowers, president; Chas. B. Bayly, secretary.

AMERICAN COPYRIGHT LEAGUE,
OFFICE OF THE SECRETARY,
March 1, 1898.

CHAIRMAN OF THE COMMITTEE ON PATENTS,
House of Representatives, Washington, D. C.

DEAR SIR: At a meeting of the executive council of the American Copyright League held in New York on the 24th of February, 1898, after full consideration of the three bills presented relating to copyright, the following resolution was passed: "Resolved, That the executive council approves of the bill introduced by the Hon. John Murray Mitchell (H. R. 7015) providing more adequate penalties for the piracy of musical publications, and respectfully recommends its enactment."

